

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF HUMAN RIGHTS

La'Mont Knazze III,

Complainant,

vs.

Minnesota Department of
Transportation,

Respondent.

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PREHEARING DISCOVERY
ORDER CONTINUING THE
TRIAL DATE

TO: La'Mont Knazze III, Complainant, and his attorney, Casey A. Streich, Attorney at Law, 4700 Norwest Center, 90 South Seventh Street, Minneapolis, Minnesota 55402-4129, and Respondent Minnesota Department of Transportation and its attorney, Mary Ann Bernard, Assistant Attorney General, 445 Minnesota Street, Suite 1100, St. Paul, Minnesota 55101-2128.

Pretrial motions relating to several discovery issues and continuance of the date for a trial are now pending before the Administrative Law Judge. A hearing was held on these motions on April 23, 1996, at the Office of Administrative Hearings, at which time both parties were present and stated their argument regarding the motions. Complainant La'Mont Knazze III, (hereinafter "Knazze") has moved the Judge for an Order compelling Respondent Minnesota Department of Transportation (hereinafter referred to as the "Department") to respond to interrogatories, requests for documents, and tender its witnesses for depositions. The Department in its motion has requested that the Administrative Law Judge issue an Order compelling Mr. Knazze to answer certain interrogatories, supply certain authorizations for release of information and continue the trial date to approximately January 1997.

Oral argument was heard on these motions on April 23, 1996, at the Office of Administrative Hearings. Based upon the oral argument and written submissions of the parties and upon the files and records contained in this matter, the Judge makes the following:

FINDINGS

1. Both parties have been unable to obtain satisfactory results in their proposed discovery. Each party accuses the other of not cooperating or erecting barriers to achievement of their discovery goals.

2. The Judge has had two hearings addressing discovery issues raised by the parties to this proceeding.

3. This case is scheduled for trial on June 3-6, 1996 at the Office of Administrative Hearings. In a previous telephone conference call on March 7, 1996, both counsel agreed that the scheduled trial date was not feasible given the progress of the discovery by the parties.

4. During the telephone conference, the Judge agreed that the trial date should be continued; however, instead of imposing a new date, he allowed the parties an opportunity to identify a convenient date for rescheduling the trial. The parties have been unable to agree on a rescheduled trial date.

5. The parties have explained various reasons for the lack of discovery progress and have asserted claims regarding who is at fault. The Judge is unconcerned about fault at this time and is more concerned about moving this case along. The Judge has previously encouraged and ordered the parties to cooperate in discovery. Because these previous directions have not achieved the desired effect, the Judge takes this opportunity to forewarn the parties that he will not hesitate to use the sanctions authorized by Minn. Rules part 1400.6700 and part 1400.7050. The parties are hereby forewarned that any continuing failure to cooperate will result in the application of these remedies, with or without the application by a party.

6. The parties shall make their witnesses available for deposition. The Judge fully expects that the witnesses will answer each and every question to the best of their ability. The Judge will decide relevance questions at the time of trial.

7. The Judge finds that Mr. Knazze has placed his "private life" at issue in this proceeding by virtue of his claims for "physical, emotional and mental distress".

8. There have been five changes of counsel, three times for Mr. Knazze and two times for the Department during this proceeding; further changes of counsel will further delay this proceeding and the Judge desires to avoid other such changes.

9. The following schedule is appropriate for this case:

(a) All discovery shall be completed by July 31, 1996;

(b) The Department shall file its dispositive motion by August 30, 1996;

(c) Mr. Knazze shall file a responsive memorandum by September 30, 1996;

(d) The Department's reply shall be no later than October 14, 1996.

(e) Argument, if requested, shall be held on October 24, 1996 at 1:30 p.m. at the Office of Administrative Hearings.

(f) The trial in this case shall commence on Wednesday of the last week of January 1997.

10. The Department shall respond to Mr. Knazze's discovery requests within 30 days of the date of this Order. The Department shall make available witnesses for deposition at times convenient for the parties.

11. Mr. Knazze shall provide authorizations for release of information as requested by the Department so long as the request for releases are for specific information relating to a particular entity.

12. Mr. Knazze must appear for deposition at times convenient to the parties and shall reply to any and all questions that might have a bearing on his claims for emotional distress, including questions regarding his family, his finances, his businesses, his interactions with police, and any other personal circumstances.

13. Mr. Knazze shall make reasonable efforts to obtain and supply the names of physicians, counselors, and supervisors which he did not remember during his deposition. Mr. Knazze is hereby forewarned that failure to fully cooperate may adversely affect his claims for emotional distress damages and retaliation.

Based upon the foregoing Findings, the Administrative Law Judge finds that it is appropriate and in the public interests to issue the following Order:

1. The parties shall conduct their discovery in accordance with the Findings contained in this Order.

2. The schedule of dates contained in the Findings must be complied with by the parties unless the dates are changed by the Administrative Law Judge.

3. The parties are hereby forewarned that any further delay or lack of progress will result in application of the sanctions authorized by Minn. Rules pts. 1400.6700 and 1400.7050.

Dated this 7th day of May, 1996.

ALLEN E. GILES
Administrative Law Judge